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# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

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### Division of Water Rights

JERRY D. OLDS  
State Engineer/Division Director

July 8, 2008

Milton Beck  
Hc 65 Box 764  
Mckinnon WY 82938

Dear Mr. Beck:

I am writing in response to your undated letter of several weeks ago. I am sorry that it has taken me this long to respond. I appreciate the time you took to write and express your concerns and the frustrations you have about the regulation and distribution of water on the Henry's Fork Distribution System. I will try as best as I can to respond to each of them.

The Henry's Fork Distribution System is unusual in the State of Utah partly because it is an interstate distribution system and partly because it is governed by the Upper Colorado River Compact. Because of these two situations the Henry's Fork Distribution System is governed by a set of principles that are different from other distribution systems around the state. The following portions of the compact are the governing principles for the Henry's Fork Distribution System:

Subject to the provisions of this Compact, the consumptive use of the waters of Henry's Fork, a tributary of Green River originating in the State of Utah and flowing into the State of Wyoming and thence into the Green River in the State of Utah; ... and their tributaries, are hereby apportioned between the States of Utah and Wyoming in such quantities as will result from the application of the following principles and procedures:

Waters diverted from Henry's Fork, ... and their tributaries, shall be administered without regard to the state line on the basis of an interstate priority schedule ...

The State Engineers of the two States jointly shall appoint a Special Water Commissioner who shall have authority to administer the water in both States in accordance with the terms of this Article. The salary and expenses of such Special Water Commissioner shall be paid, thirty per cent by the State of Utah and seventy per cent by the State of Wyoming.

Accordingly, the State of Utah cooperates with the State of Wyoming in the appointment of a water commissioner and the payment of the commissioner's salary and expenses. Since most of the distribution system is located in Wyoming and since by compact it pays most of the system expenses, Wyoming has taken the lead in the appointment of the water commissioner and in setting the commissioner's salary. However, the State of Utah and the Utah water users must concur in those decisions.



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It is true there is no budget set at the meeting and the assessments are based on the expenses of the previous year, so it may seem that the annual meetings serve no purpose. However, we view them as a very important check on the State of Wyoming and also an opportunity for Wyoming and the commissioner to provide an accounting to the Utah water users of the previous year's water distribution. The commissioner does coordinate with our Vernal office, however, we are not out on the ground very often with him, so we would look to the water users to bring up any specific problems or concerns they have in the annual meetings. If specific concerns or problems are not brought up in the meeting where they can be discussed, it is more difficult to address them.


We are also very concerned that the commissioner do a fair and equitable job in regulating and distributing water to Utah water users according to Utah water rights and Utah water law. You mention some general allegations against Todd Covolo in his capacity as water commissioner; however, nothing specific. If you can describe specific instances where Mr. Covolo has acted improperly as water commissioner, we will be happy to investigate them and bring the issue up with the State of Wyoming.

You mentioned your concerns with the Ike Ditch 1902 and 1912 water rights being shut off every year. You have to realize that 1902 and 1912 are fairly junior priorities on this distribution system and that, just as everywhere else in the State of Utah, junior priorities are shut off as water supplies drop each year. Since we are governed by the Colorado River Compact, we have to recognize the earlier priorities in Wyoming. We will discuss the issue of measuring devices with Wyoming. Under Utah law, if the water will not reasonably reach a lower water user, then the upper junior priority water users do not have to release it to them. However, whether to release the water or not is a decision that is always made by the water commissioner in consultation with the State Engineer. It is a situation that we will look into.

The decision to put the distribution system on regulation is based on Wyoming laws, policies and procedures. Since the system is regulated as a whole without regard to state line and since Utah water is theoretically on regulation from the very start of the irrigation season, a decision in Wyoming to go on regulation triggers regulation in Utah also.

These responses may not make you feel any better about the situation on the Henry's Fork Distribution System, but I hope they at least help you understand why administration is handled the way that it is. If you have any further questions, please contact me by phone at 801-538-7380 or by e-mail at [LeeSim@utah.gov](mailto:LeeSim@utah.gov) or Bob Leake, Regional Engineer, by phone at 435-781-5327 or by e-mail at [RobertLeake@utah.gov](mailto:RobertLeake@utah.gov).

Respectfully,



Lee H. Sim, P.E.

Assistant State Engineer for Field Services

cc: Bob Leake, Regional Engineer